

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)	
)	
)	
Plaintiff,)	CIVIL ACTION NO. 1:13-CV-00796
)	
v.)	<u>C O M P L A I N T</u>
)	
)	<u>JURY TRIAL DEMAND</u>
SCOTTISH FOOD SYSTEMS, INC., d/b/a KENTUCKY FRIED CHICKEN, and LAURINBURG KFC TAKE HOME, INC., d/b/a/ KENTUCKY FRIED CHICKEN,)	
)	
)	
Defendants.)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of religion, and to provide appropriate relief to Sheila Silver (“Silver”) who was adversely affected by such practices. Specifically, the Equal Employment Opportunity Commission (the “Commission”) contends that Scottish Food Systems, Inc., d/b/a Kentucky Fried Chicken, and Laurinburg KFC Take Home, Inc., d/b/a Kentucky Fried Chicken, (collectively, “Defendants”) discriminated against Silver when they refused to accommodate Silver’s religious beliefs, and discharged her because of her religion, Christian/Pentecostal.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Middle District of North Carolina.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Scottish Food Systems, Inc., d/b/a Kentucky Fried Chicken, has continuously been a North Carolina corporation doing business in the State of North Carolina and the City of Laurinburg, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant Scottish Food Systems, Inc., d/b/a Kentucky Fried Chicken, has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

6. At all relevant times, Defendant Laurinburg KFC Take Home, Inc., d/b/a Kentucky Fried Chicken, has continuously been a North Carolina corporation doing business in the State of North Carolina and the City of Laurinburg, and has continuously had at least fifteen (15) employees.

7. At all relevant times, Defendant Laurinburg KFC Take Home, Inc., d/b/a Kentucky Fried Chicken, has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

8. At all relevant times, Defendants jointly owned and/or operated a Kentucky Fried Chicken restaurant on Stone Rose Avenue in Rocky Mount, North Carolina.

STATEMENT OF CLAIMS

9. More than thirty days prior to the institution of this lawsuit, Silver filed a charge with the Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

10. On or about April 2013, Defendants engaged in unlawful employment practices at their facility located on Stone Rose Avenue in Rocky Mount, North Carolina, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a) when they refused to accommodate the religious belief and practice of Sheila Silver and discharged her because of her religion, Christian/Pentecostal.

11. Silver converted to Pentecostalism in 2010. As a member of the Pentecostal church, Silver holds the religious belief that she cannot wear pants because she is a woman. Silver has not worn pants since the fall of 2010 in accordance with this sincerely held religious belief.

12. Silver has worked at various Kentucky Fried Chicken restaurants since 1992. Silver began wearing skirts to work in the fall of 2010 after she converted to Pentecostalism.

13. On or about April 2013, Defendants purchased the Kentucky Fried Chicken restaurant where Silver worked. On or about April 2013, Defendants informed Silver that she must wear pants to work because of Defendants' dress code policy. Silver informed Defendants that she could not wear pants because of her religious beliefs. Defendants told Silver that if she did not wear pants to work, she could no longer continue to work for Defendants. Silver refused to wear pants to work and was discharged. Accordingly, Defendants refused to accommodate

Silver's sincerely held religious beliefs and discharged her because of her religion, Christian/Pentecostal.

14. The effect of the practices complained of above has been to deprive Silver of equal employment opportunities and otherwise adversely affect her status as an employee because of her religion.

15. The unlawful employment practices complained of above were intentional.

16. The unlawful employment practices complained of above were done with malice or with reckless indifference to the federally protected rights of Silver.

PRAAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with them, from discriminating against current or future employees based on their religious beliefs and/or their refusal to violate their religious beliefs.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for all employees, including an effective policy prohibiting religious discrimination and allowing for religious accommodation, all of which eradicate the effects of their past and present unlawful employment practices.

C. Order Defendants to make Silver whole by providing appropriate back pay and benefits with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices described above, including but not limited to reinstatement or front pay.

D. Order Defendants to make Silver whole, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including but not limited to job search expenses, in amounts to be determined at trial.

E. Order Defendants to make Silver whole by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including but not limited to emotional pain, suffering, inconvenience, humiliation, loss of enjoyment of life, loss of civil rights and other non-pecuniary losses, in amounts to be determined at trial.

F. Order Defendants to pay Silver punitive damages for their malicious and reckless conduct described above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

K. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED this the 19th day of September, 2013.

Respectfully submitted,
P. DAVID LOPEZ
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

LYNETTE A. BARNES
Regional Attorney

KARA GIBBON HADEN
Virginia State Bar No. 29682
Supervisory Trial Attorney
Charlotte District Office

129 W. Trade Street, Suite 400
Charlotte, NC 28202

/s/ Katherine A. Zimmerman
KATHERINE A. ZIMMERMAN
NC Bar No. 36393
Trial Attorney
Raleigh Area Office
434 Fayetteville Street, Suite 700
Raleigh, North Carolina 27601-1701
Phone: (919) 856-4148
Fax: (919) 856-4151
katherine.zimmerman@eeoc.gov

ATTORNEYS FOR PLAINTIFF